

ORDER ON IA NO.I

Provision under which the application is filed	U/Sec.41 rule 5 of C.P.C.
Relief sought for	To stay the order of the judgment and decree.
The date on which the application is filed	01.07.2025
Number of the application	IA No.I
The date on which the objections are filed by different opponent	--
The date on which the orders were passed on the said application	16.09.2025

The appellant filed this application U/o.41 rule 5 of CPC to stay the order of the judgment and decree passed by the Civil Judge and JMFC, Devadurga in O.S.No.53/2022 dated 11.06.2025 till disposal of the appeal.

2. In the affidavit contended that the appellant is the defendant in the trail court. The trail court has over looked all the legal aspects and decreed the suit against the clear admissions and suggestions made to PW.1. The appellant is the owner and in possession of the suit property. The respondent have sufficient knowledge about the ownership appellant. Since from 1998 the respondent has not objected. The respondent filed the suit only to take revenge against appellant. The respondent taking advantage of the preliminary decree she is making efforts to dispossess the appellant. Hence it is necessary to

stay the execution and operation of the judgment and decree. Hence prays to allow the application.

3. On the other hand, the respondents filed objection. In the objection contended that the application is no maintainable. The application filed by the applicant is misleading one as such the present application is misconceived one. The trial court has decreed the suit on 11.06.2025. Moreover the appellant has not given any reasons to allow the application. The contents of the affidavit are all false. Hence prays to reject the application.

4. Heard both side.

5. After going through the material available on record the appellant filed this application to stay the order of the judgment in O.S.No.53/2022 dated 11.06.2025. As per the records the plaintiff filed suit for partition against the defendants and the said suit came to be decreed. Being aggrieved the judgment and decree the appellant has preferred this appeal along with present application to stay the order of the decree. In the affidavit the appellant contended that the judgment and decree is not in accordance with law and also it is not on merits. As per the records the appeal is preferred against the preliminary decree and there is no final decree to execute the decree. In a partition suit final decree is to be executed. The

appellant in the application sought for staying the execution and operation of the judgment and decree in O.S.No.53/2022 which is not permissible under law and there is no question of staying the operation and execution of preliminary decree. Until final decree in partition suit there is no question of execution and operation. Hence under such circumstance the relief sought in the application cannot be granted. Hence this court is of the opinion that the appellant has not made out grounds to allow this application. Hence this court proceed to pass the following;

ORDER

I.A.No.I filed U/o.41 rule 5 of CPC is hereby rejected.

Call for TCR

Call on 12.11.2025.

**Senior Civil Judge & JMFC.,
Devadurga.**